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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,660	08/25/2003	Simon Handelsman	4316/037	2140
22440	7590	01/28/2005	EXAMINER	
GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 100160601			NGUYEN, SON T	
		ART UNIT	PAPER NUMBER	
		3643		

DATE MAILED: 01/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<i>V</i> Office Action Summary	Application No.	Applicant(s)
	10/647,660	HANDELSMAN, SIMON
	Examiner Son T. Nguyen	Art Unit 3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 November 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11, 13-16 and 18-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-11, 13-16 and 18-35 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-15,32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 1 & 32, the amended language of "cut across" is unclear because it seems that cutting across is same as perpendicular to the axis of rotation. No elements of the invention appear to "cut across" the axis of rotation.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1,2,11,13,32,34** are rejected under 35 U.S.C. 102(b) as being anticipated by Hass (US 5961406).

For claim 1, Hass discloses a pet toy that is capable of being chewed by a pet, thus, pet chew, the chew comprising: a first member 36; a second member 12; means 92,90,94,96,14 for mounting the first member and the second member in a rotatable orientation, wherein the first member and the second member are rotatable relative to one another around an axis of rotation; a plurality of scrubbing elements (the fur on the

tennis ball) collectively mounted on a first substantially planar surface of the first member (the planar surface is considered to be when one draws a plane vertically upward and downward from ref. 38, all the scrubbing elements touching that plane is substantially planar on that surface); and a plurality of scrubbing elements (the fur on the tennis ball) collectively mounted on a substantially planar first surface of the second member (the planar surface is considered to be when one draws a plane vertically upward and downward from ref. 20, all the scrubbing elements touching that plane is substantially planar on that surface); wherein the first surface of the first member and the first surface of the second member are generally perpendicular to and cut across the axis of rotation (again, line drawn straight up and down from refs. 38,20); wherein the first surface of the first member and the first surface of the second member completely face each other (the fur on each ball at refs. 38,20 face each other).

For claim 2, Hass discloses wherein the first surface of the first member and the first surface of the second member are generally parallel to one another (again, line drawn at refs. 38,20, surfaces will be parallel).

For claim 11, Hass discloses wherein each of the scrubbing elements is adapted to scrub at least one of: (a) a tooth; and (b) a gum.

For claim 13, Hass discloses wherein the scrubbing elements are mounted on said surfaces of said members in rows (the fur on the tennis ball is mounted in rows of fibers).

For claim 32, Hass discloses a method of providing dental care to a pet having teeth, comprising: mounting a first member 36 of a pet chew and a second member 12

of the pet chew in a rotatable orientations wherein the first member and the second member are rotatable relative to one another around an axis of rotation; collectively mounting a plurality of scrubbing elements (fur on tennis ball) on a first substantially planar surface of the first member; and collectively mounting a plurality of scrubbing elements (fur on tennis ball) on a first substantially planar surface of the second member; wherein the first surface of the first member and the first surface of the second member are generally perpendicular to and cut across the axis of rotation, and wherein the surfaces completely face each other; and wherein movement during chewing of the pet chew by the pet, by at least one tooth of the pet against at least one of: (a) at least one of the scrubbing elements; (b) the first member; and (c) the second member causes the first member and the second member to rotate relative to one another. See above claim 1 for detailed explanation of the surfaces.

For claim 34, Hass teaches wherein the scrubbing elements mounted on said first surface of the first member are in facing relationship to the scrubbing elements mounted on the first surface of the second member.

5. **Claims 1-4,8,9,11,16,18-20,24,26-28,33-35** are rejected under 35 U.S.C. 102(b) as being anticipated by Ganson (US 5916006).

For claim 1, Ganson teaches a toy that is capable of being chewed by a pet, thus, pet chew, the chew comprising: a first member 102; a second member 104; means 50d for mounting the first member and the second member in a rotatable orientation, wherein the first member and the second member are rotatable relative to one another around an axis of rotation; a plurality of scrubbing elements 50i-50q

collectively mounted on a first substantially planar surface of the first member; and a plurality of scrubbing elements 50i-50q collectively mounted on a substantially planar first surface of the second member; wherein the first surface of the first member and the first surface of the second member are generally perpendicular to and cut across the axis of rotation; wherein the first surface of the first member and the first surface of the second member completely face each other.

For claim 2, Ganson teaches wherein the first surface of the first member and the first surface of the second member are generally parallel to one another.

For claim 3, Ganson teaches wherein the means for mounting includes a shaft 50d.

For claim 4, Ganson teaches wherein the first member and the second member are mounted on the shaft.

For claim 8, Ganson teaches retaining means 101 for retaining the first member and the second member on the shaft. Or, the friction fit of the holes in member 102,104, or other members, for example, 90a, can stop members 102,104 from moving up the shaft 50d.

For claim 9, Ganson teaches wherein the first member is a first circular disk and the second member is a second circular disk.

For claim 11, Ganson teaches wherein each of the scrubbing elements is adapted to scrub at least one of a tooth and a gum.

For claim 16, Ganson teaches a pet chew, comprising: a plurality of circular disks 102,104, wherein each of the disks includes (an) a substantially flat obverse surface, a

substantially flat reverse surface, and an outer circumferential surface; means 50d for mounting the disks in a rotatable orientation, wherein the disks are rotatable relative to one another around an axis of rotation substantially perpendicular to both the obverse surface and reverse surface of each said disk; and a plurality of scrubbing elements 50i-50q mounted on at least one of the obverse surface and the reverse surface of each disk; wherein the obverse surfaces of each said disk completely face each other. See also claim 1 for explanation.

For claim 18, Ganson teaches wherein the obverse surface and the reverse surface of each disk are generally parallel to one another.

For claim 19, Ganson teaches wherein the means for mounting includes a shaft 50d.

For claim 20, Ganson teaches wherein each disk is mounted on the shaft.

For claim 24, Ganson teaches retaining means 101 for retaining the disks on the shaft. Or, the friction fit of the holes in member 102,104, or other members, for example, 90a, can stop members 102,104 from moving up the shaft 50d.

For claim 26, see claim 11.

For claim 27, Ganson teaches wherein the number of disks is in the range of 1 to 16 (there are 2 there, thus, is in the range of 1 to 16).

For claim 28, Ganson teaches wherein the scrubbing elements mounted on at least one of the obverse surface and reverse surface of at least one disk are mounted in circular rows.

For claim 33, Ganson teaches a method that is capable of providing dental care to a pet having teeth, comprising: mounting a plurality of circular disks 102,104 in a rotatable orientation, wherein the disks are rotatable relative to one another around an axis of rotation; and mounting a plurality of scrubbing elements 50i-50q on at least one of a substantially flat obverse surface and a substantially flat reverse surface of each disk, the obverse and reverse surfaces of each said disk being substantially perpendicular to said axis of rotation and said obverse surfaces completely facing one another; wherein movement, during chewing of the pet chew by the pet, by at least one tooth of the pet against at least one of: (a) at least one of the scrubbing elements; and (b) at least one of the disks causes the disks to rotate relative to one another.

For claim 34, Ganson teaches wherein the scrubbing elements mounted on said first surface of the first member are in facing relationship to the scrubbing elements mounted on the first surface of the second member.

For claim 35, Ganson teaches wherein the obverse surface of one of said disks has said plurality of scrubbing elements mounted in a substantially facing relationship to said plurality of scrubbing elements mounted on the reverse surface of another of said disks.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-9,11,13-16,18-20,24,26-31,34,35** are rejected under 35 U.S.C. 102(b) as being anticipated by Mann (US 6470830).

For claim 1, Mann teaches a pet chew comprising: a first member 68 or 88; a second member 68 or 88; means 92 for mounting the first member and the second member in a rotatable orientation (rotation occurs by fitting in means 92 into 94 and rotating it until the members 68,88 are in place before gluing down), wherein the first member and the second member are rotatable relative to one another around an axis of rotation; a plurality of scrubbing elements 130 collectively mounted on a first substantially planar surface of the first member; and a plurality of scrubbing elements 130 collectively mounted on a substantially planar first surface of the second member; wherein the first surface of the first member and the first surface of the second member are generally perpendicular to and cut across the axis of rotation; wherein the first surface of the first member and the first surface of the second member completely face each other.

For claim 2, Mann teaches wherein the first surface of the first member and the first surface of the second member are generally parallel to one another.

For claim 3, Mann teaches wherein the means for mounting includes a shaft 92.

For claim 4, Mann teaches wherein the first and second members are mounted on the shaft.

For claim 5, Mann teaches spacing means (fig. 22, the element surrounding ref. 92 and ref. 94 are considered spacing means for the two members 88 because they create a spacing between the members).

For claim 6, Mann teaches wherein the spacing means comprises a hub (fig. 22, the element surrounding ref. 92 and ref. 94 are considered spacing means for the two members 88 because they create a spacing between the members) disposed between the first surfaces of the members.

For claim 7, Mann teaches wherein the spacing means comprises a hub (fig. 22, the element surrounding ref. 92 and ref. 94 are considered spacing means for the two members 88 because they create a spacing between the members, and is a raised portion of the surfaces) formed of a raised portion of at least one of the first surface of the first member and the first surface of the second member.

For claim 8, Mann teaches retaining means (the adhesive as mentioned in col. 6, line 60).

For claim 9, Mann teaches wherein the first member is a first circular disk 68 and the second member is a second circular disk 68.

For claim 11, Mann teaches wherein each of the scrubbing elements is adapted to scrub at least one of a tooth and a gum.

For claim 13, Mann teaches wherein the scrubbing elements are mounted on said surfaces of said members in rows.

For claim 14, Mann teaches wherein the scrubbing elements are mounted in offset rows (see fig. 22).

For claim 15, Mann teaches wherein the scrubbing elements are mounted in circular rows along the surfaces (see fig. 20).

For claim 16, Mann teaches a pet chew, comprising: a plurality of circular disks 68 (fig. 20), wherein each of the disks includes (an) a substantially flat obverse surface, a substantially flat reverse surface, and an outer circumferential surface; means 92 for mounting the disks in a rotatable orientation, wherein the disks are rotatable relative to one another around an axis of rotation substantially perpendicular to both the obverse surface and reverse surface of each said disk (before they are glued to each other); and a plurality of scrubbing elements 130 mounted on at least one of the obverse surface and the reverse surface of each disk; wherein the obverse surfaces of each said disk completely face each other.

For claim 18, Mann teaches wherein the obverse surface and the reverse surface of each disk are generally parallel to one another.

For claim 19, Mann teaches wherein the means for mounting includes a shaft 92.

For claim 20, Mann teaches wherein each disk is mounted on the shaft.

For claim 24, Mann teaches retaining means (the adhesive as discussed in col. 6, line 60).

For claim 26, Mann teaches wherein each of the scrubbing elements is adapted to scrub a tooth and a gum.

For claim 27, Mann teaches wherein the number of disks is in the range of 1 to 16 (there are two).

For claim 28, Mann teaches wherein the scrubbing elements mounted on at least one of the obverse surface and the reverse surface of at least one disk are mounted in circular rows (see fig. 20).

For claim 29, Mann teaches wherein the scrubbing elements in at least one row is offset from the scrubbing elements in at least another row (see fig. 20).

For claim 30, Mann teaches wherein the number of rows is in the range of 1 to 16 (there are two circular rows in fig. 20).

For claim 31, Mann teaches wherein the plurality of circular disks define a ball shaped configuration (see figs. 19 & 20). Note, ball comes in a variety of sizes so since Applicant did not specified which types of shape of ball, the toy in figs. 19,20 can be considered one of the many ball shapes.

For claim 34, Mann teaches wherein the scrubbing elements mounted on said first surface of the first member are in facing relationship to the scrubbing elements mounted on the first surface of the second member.

For claim 35, Mann teaches wherein the obverse surface of one of said disks has said plurality of scrubbing elements mounted in a substantially facing relationship to said plurality of scrubbing elements mounted on the reverse surface of another of said disks.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 5,6,21,22,30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ganson (as above).

For claims 5,6,21,22, Ganson teaches in col. 5, lines 1-19, that a variety of configuration can be employed with using any of elements 102,104,106,108, etc. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ various configuration such as one that has another element between members 102,104 of the chew of Ganson in order to provide different variation of the toy. The element being placed in between members 102,104 is the spacing means. In addition, member 108 or 106 can be placed between members 102,104, thus, members 106,108 represents a hub.

For claim 30, Ganson teaches wherein the number of rows is in the range of 1 to 16 (shown is 1 row so that's in the range of 1 to 16).

10. **Claims 10,25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ganson (as above) in view of Kaplan (D453242).

Kaplan teaches a toy having scrubbing elements mounted on an outer circumferential surface of a disk (the 2 circular disks in the middle). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ additional scrubbing elements mounted on an outer circumferential surface of a disk as taught by Kaplan in the toy of Ganson in order to further entice the animal or person playing the toy and to make the toy more pleasing in appearance.

11. **Claims 16,18-24,26,27,35** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mann (as above). These claims are rejected based on Mann's fig. 22.

For claim 16, Mann teaches the above as mentioned such as the members 88, shaft 92, scrubbing elements 130, etc. However, Mann is silent about the disks being

circular in shape. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the members 88 of Mann in circular shape, depending on the user's preference to select a shape that is pleasing in appearance.

For claim 18, Mann teaches wherein the obverse surface and the reverse surface of each disk are generally parallel to one another.

For claim 19, Mann teaches wherein the means for mounting includes a shaft 92.

For claim 20, Mann teaches wherein each disk is mounted on the shaft.

For claim 21, Mann teaches spacing means (fig. 22, the element surrounding ref. 92 and ref. 94 are considered spacing means for the two members 88 because they create a spacing between the members).

For claim 22, Mann teaches wherein the spacing means comprises a hub (fig. 22, the element surrounding ref. 92 and ref. 94 are considered spacing means for the two members 88 because they create a spacing between the members) disposed between the first surfaces of the members.

For claim 23, Mann teaches wherein the spacing means comprises a hub (fig. 22, the element surrounding ref. 92 and ref. 94 are considered spacing means for the two members 88 because they create a spacing between the members, and is a raised portion of the surfaces) formed of a raised portion of at least one of the first surface of the first member and the first surface of the second member.

For claim 24, Mann teaches retaining means (the adhesive as discussed in col. 6, line 60).

For claim 26, Mann teaches wherein each of the scrubbing elements is adapted to scrub at least one of a tooth and a gum.

For claim 27, Mann teaches the number of disks is two.

For claim 35, Mann teaches wherein the obverse surface of one of said disks has said plurality of scrubbing elements mounted in a substantially facing relationship to said plurality of scrubbing elements mounted on the reverse surface of another of said disks.

Response to Arguments

12. Applicant's arguments with respect to claims 1-11,13-16,18-35 have been considered but are moot in view of the new ground(s) of rejection.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 703-305-0765. The examiner can normally be reached on Mon-Fri from 9:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Son T. Nguyen
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stn